

# Departmental Disclosure Statement

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Health (Drinking-Water) Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Health.

The Ministry of Health certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

Friday 1 June 2018.

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## **Part One: General Policy Statement**

The policy objectives of the Bill are to improve the effectiveness and efficiency of Part 2A (Drinking water) of the Health Act 1956 (the Act) without materially affecting any party or imposing new or additional costs.

Following the Government Inquiry into Havelock North Drinking-water, Cabinet agreed to a range of measures to address the Inquiry recommendations, including some immediate amendments to Part 2A of the Act.

The amendments proposed as a result of the Inquiry will be supplemented with a small number of additional, minor improvements to Part 2A of the Act.

The main provisions included in the Bill:

1. Remove requirements for the Ministry of Health to consult for three years and gazette changes for two years prior to making any changes to the drinking-water standards.
2. Clarify that water safety plans must include timetables to implement measures which mitigate risks to drinking-water.
3. Streamline processes for the appointment of drinking-water assessors
4. Remove unnecessary references to designated ports and airports.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>YES</b>
The main impetus for the Bill comes from the <i>Report of the Havelock North Drinking Water Inquiry: Stage 2</i> , released 6 December 2017.  <a href="https://www.dia.govt.nz/Government-Inquiry-into-Havelock-North-Drinking-Water">https://www.dia.govt.nz/Government-Inquiry-into-Havelock-North-Drinking-Water</a>	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>

### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>NO</b>
A Regulatory Impact Analysis was not required for these proposals because they have no or only minor impacts on businesses, individuals or not-for-profit entities. The amendments proposed do not meet the threshold for the preparation of a regulatory impact assessment. Later changes to the drinking-water standards facilitated by this amendment may have significant implications for water suppliers. The health benefits of any such changes to the standards as well as their practical and cost implications for suppliers (including appropriate lead times) would need to be considered and consulted on as part of the development of any new or amended standards. Changes that have more than minor implications for water suppliers would require a regulatory impact assessment, unless an exemption is granted.	

### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>

<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>NO</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>
<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be affected by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>NO</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>NO</b>

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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With one exception, there are no international obligations with a direct bearing on the proposals in the Bill. The exception is the proposal to remove all references to operators of designated ports or airports from Part 2A of the Act.

Such ports or airports (referred to as 'points of entry') are designated pursuant to the International Health Regulations 2005 (IHR). The IHR explicitly require designated points of entry "... to ensure a safe environment for travellers using point of entry facilities, including potable water supplies..." (Section B, Annex 1, IHR 2005).

The application of Part 2A of the Act to designated ports or airports duplicates other statutory requirements, including under the Building Act in relation to the availability of potable water, and creates unnecessary transaction costs for air and port authorities. Removal of references to designated ports or airports will have no material effect on New Zealand's ability to meet its obligations under the IHR 2005.

### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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None of the provisions in the Bill are inconsistent with the principles of the Treaty of Waitangi. Te Puni Kōkiri and the Ministry of Justice were consulted on the policy to be given effect by the Bill in March 2018.

### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>	<b>NO</b>
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A copy of the Bill has been provided to the Attorney-General for NZBoRA vetting purposes. The Attorney-General will publish a determination of the Bill's consistency with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 in due course.

## Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>NO</b>
<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>

## Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>NO</b>
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## External consultation

<b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b>	<b>NO</b>
Because the provisions are mainly of a technical or administrative nature, no public consultation was undertaken on the proposals in the Bill. Some of the provisions in the Bill give effect to a number of the recommendations of the Havelock North Drinking Water Inquiry, which underwent a lengthy public process during 2017.	

## Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>	<b>NO</b>
Many of the minor changes proposed are sought as a result of the Ministry's experience implementing Part 2A of the Act. The Bill seeks to clarify legislative provisions that have caused confusion and will also remove sections and processes that have been found to be unnecessary or duplicative. Some of the proposals have been tested as part of the Government Inquiry into the Havelock North Drinking-water Outbreak.	

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

### Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

### Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

### Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

### Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

### Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO



## Powers to make delegated legislation

<b>4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?</b>	<b>NO</b>

<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>YES</b>
<p>Under section 69O of the Act, the Minister of Health may issue, amend and revoke Standards for drinking-water. Sections 69P and 69R specify periods of time for consultation (three years) and notice prior to commencement (two years) for non-urgent and minor amendments to the Standards. Accordingly, amending the Drinking-water Standards currently requires a five-year process, unless the changes are urgent or minor, such that they will not adversely and substantially affect the interests of any person. This Bill will remove these specified time periods. However, the Bill retains (unchanged) the requirement that the Minister must first be "... <i>satisfied that adequate consultation has been carried out with respect to... proposed amendments</i>".</p>	

## Any other unusual provisions or features

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>NO</b>